

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
MIAMI DIVISION

Case Number: 23-CR-20350-MARTINEZ

UNITED STATES OF AMERICA

v.

JOHANNA MICHELY GARCIA,

Defendant.

/

**ORDER SETTING CRIMINAL TRIAL DATE
AND PRETRIAL SCHEDULE¹**

Trial is scheduled to commence during the two-week period beginning **Monday, October 23, 2023, at 9:30 a.m.**, before Jose E. Martinez, United States District Judge, 400 N. Miami Ave., Courtroom 10-1 Miami, Florida. Calendar Call will be held on **Thursday, October 19, 2023, at 1:30 p.m.** at the same location. **Defendants are not required to appear for Calendar Call.**

IT IS ORDERED AND ADJUDGED as follows:

1. Every motion filed in this case shall be accompanied by **one proposed original order granting** the motion. The order shall contain the **up-to-date service list** (names and addresses) of all attorneys in the case.

2. All motions filed SHALL BE accompanied by a written statement certifying that counsel for the moving party has conferred with opposing counsel in a good faith effort to resolve by agreement the subject matter of the motion, as required by Local Rule 88.9A.

3. For cases to be heard before a jury, **JOINT** proposed jury instructions and verdict form must be submitted at least **ONE WEEK prior to the Calendar Call**. In preparing their requested jury instructions, the parties shall utilize as a guide the Pattern Jury Instructions for Criminal Cases approved by the United States Eleventh Circuit, including the Directions to Counsel contained therein.

¹ Counsel shall note changes on page "4" of the Scheduling Order regarding submissions on Motions in Limine.

The parties shall submit a **SINGLE, JOINT** set of proposed jury instructions and verdict form, though the parties need not agree on the proposed language of each or any instruction or question on the verdict form. Where the parties do agree on a proposed instruction or question, that instruction or question shall be set forth in Times New Roman 12 point typeface. Instructions and questions proposed only by the Government to which the defendant(s) object shall be *italicized*. Instructions and questions proposed only the defendant(s) to which the Government objects shall be **bold-faced**. Each jury instruction shall be typed on a separate sheet and must be supported by citations of authority. Each disputed jury instruction shall also state the legal basis for the objection(s), and be supported by citations of authority. **A copy of the proposed jury instructions and verdict form in Microsoft Word format** shall be e-mailed to Chambers at the time of filing.² The jury instructions shall contain two (2) versions; one version with citations of authority and objections and one without citations. The Court expects counsel will cooperate in good faith and in most cases, should be able to agree on the general organization of the instructions and verdict form, standard instructions, and similar routine issues, thereby limiting the Court's consideration to *bona fide* substantive disputes relating to the instructions and verdict form. **Failure to cooperate in good faith and/or to submit proposed jury instructions as required by this order will result in appropriate sanctions being imposed upon the offending party.**

4. The Court **ADVISES** Defendant that Qualification for Acceptance of Responsibility is jeopardized if an intention to enter a plea of guilty is not announced "at a sufficiently early point in the process so that the government may avoid preparing for trial and the court may schedule its calendar efficiently." See U.S. Sentencing Commission Manual, §3E1.1, Application Notes 1(h) & 6. **At the latest, a week before calendar call.**

5. If deposition transcripts will be used at trial, the parties shall comply with the following guidelines:

a. At least seven (7) days in advance of the beginning of the trial period, the Government shall serve designations of any transcripts it intends to use at trial. At least five (5) days in advance of the beginning of the trial period, Defendants shall serve their counter-designations, together with any objections to the Government's designations. At least three (3) days in advance of the beginning of the trial period, the Government shall serve any rebuttal

² Counsel may submit all proposed orders to: Martinez@flsd.uscourts.gov

designations, together with any objections to Defendants' counter-designations. At least two (2) day in advance of the beginning of the trial period, Defendants shall serve any objections to the Government's rebuttal designations.

b. At least one (1) day in advance of the beginning of the trial period, the parties shall prepare and JOINTLY FILE one copy of each transcript to be used during trial. The parties shall edit the transcript, using a mini-transcript when available, to remove all irrelevant, extraneous and unnecessary pages. Each portion of the testimony designated shall be bracketed to indicate beginning and end. A notice of filing setting forth each party's designated testimony by line and page, and setting forth all objections, shall be filed with the transcript. In addition to listing objections in the notice of filing, the objections shall also be indicated in the margin of the transcript. The parties may either write their objections in the margins, or use logical abbreviations that will be apparent to the Court and other parties (for example "H" for hearsay). If the parties use abbreviations, the notice of filing must include a key for the Court's reference.

c. A courtesy copy of the notice and transcript shall be delivered to chambers at the time of filing. Each party shall mark the courtesy copy of the transcript with a different color ink or highlighter to identify its designated portions of the transcript.

6. The following additional deadlines shall govern the pretrial procedures in this case. This schedule shall not be modified absent compelling circumstances.

a. All responses pursuant to the Standing Discovery Order and Local Rule 88.10 shall be provided in a timely fashion in accordance with the dates scheduled by the Magistrate Judge. Noncompliance may result in sanctions. The Fed.R.Evid. 404(b) notice shall include a specific factual basis for the evidence sought to be introduced.

b. Counsel are **DIRECTED** to comply with Local Rule 88.5, which requires counsel to file speedy trial reports every twenty (20) days hereafter until the time of trial or plea.

c. All Writs *Ad Testificandum* **must** be filed not later than **fourteen (14) business days** prior to the Calendar Call to ensure adequate time for processing.

d. If either party seeks to introduce transcripts, other than deposition transcripts as set forth above, the moving party shall present a copy to all counsel not later than **ten (10) days** prior to the Calendar Call. If a transcript cannot be agreed upon, each party shall produce its own version of the transcript for presentation to the trier of fact. Government counsel shall notify the case agent/client agency of this requirement.

e. Counsel are instructed that arrangements for appropriate clothing for defendant(s) in custody must be made with the Bureau of Prisons at least **seven (7) days** prior to the Calendar Call.

f. A Motion for Continuance **MUST** be in writing and will not be considered unless it is filed at least **seventy-two (72) hours** prior to the Calendar Call. A continuance of the trial date will be granted only on a showing of compelling circumstances. Motions for continuance will not be favorably considered unless the parties have filed of a written statement describing all discovery material exchanged.

g. In order to facilitate the accurate transcription of the trial proceeding, the parties shall provide to **the Court Reporter, Dawn Savino (Whitmarsh)**, at **400 North Miami Avenue, 10th Floor, Miami, Florida 33128, Dawn_Whitmarsh@flsd.uscourts.gov** with a email or copy of a) the witness and exhibit lists, b) a designation of unique proper nouns/names which may be used at trial, and c) a list of the names of all attorneys who will participate in the trial, to be received no later than **three (3) days** before Calendar Call for transmission to the Courts Official Reporter..

h. The parties may submit proposed voir dire at least **one (1) day** prior to Calendar Call.

i. Counsel shall submit to the Court in writing any motions in limine, no later than **seven (7) days** before the Calendar Call.

j. All anticipated Jenks material shall be turned over to defense counsel as required by the Federal Rules of Criminal Procedure. The materials shall include a fact sheet for defense counsel to sign and date to acknowledge receipt.

k. All exhibits must be pre-marked. The Government's exhibits shall be marked numerically. Defendant's exhibits shall be marked alphabetically. A typewritten exhibit list setting forth the number, or letter, and description of each exhibit must be submitted at the time of **the morning of the first day of TRIAL**. The parties shall submit said exhibit list on Form AO 187, which is available from the Clerk's office.

IT IS FURTHER ORDERED that

7. Any defense counsel who has or will represent witnesses, co-defendants, targets, or subjects in this or any other related criminal case SHALL NOTIFY the Court immediately so that a Garcia hearing can be scheduled to resolve any potential or actual conflicts of interest. It is the

desire of the Court that all Garcia hearings be conducted as close to the time of arraignment as possible.

8. **Counsel are DIRECTED to:**

- a. **IMMEDIATELY, upon receipt of this Order, certify with the Court's Courtroom Deputy the necessity of an interpreter for the Defendant(s); and**
- b. **At least twenty-four (24) hours prior to any hearing or trial, notify the Court, if an interpreter is required, including the stage of the trial at which an interpreter will be necessary.**

9. If defense counsel foresees that a sentencing hearing will take more than thirty (30) minutes, the Court's Courtroom Deputy should be advised no later than five (5) days prior to the hearing.

10. Failure to comply with this or any Order of this Court, the Local Rules, or any other applicable rule SHALL result in sanctions or other appropriate actions. It is the duty of all counsel to enforce the timetable set forth herein in order to ensure an expeditious resolution of this cause.

DONE AND ORDERED at Chambers in Miami, Florida, this 18th day of September, 2023.



JOSE E. MARTINEZ
UNITED STATES DISTRICT JUDGE

Copies provided to:
Magistrate Judge
All Counsel of Record